

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SHAQUILL HOUSTON,
SHAQUOYAH WILLIAMS, EDWARD
WILLIAMS, SHAMONTE WALKER, and
TIQUAN HARRIS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHANITA WILLIAMS,

Respondent-Appellant,

and

CHARLES HOUSTON,

Respondent.

UNPUBLISHED
July 24, 2003

No. 247248
Kent Circuit Court
Family Division
LC No. 02-258700-NA

Before: Zahra, P.J., and Talbot and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm.

The initial petition in this case alleged physical abuse against one of the children by the father, Charles Houston. An amended petition was filed alleging that Houston sexually abused one of the children and that respondent-appellant knew of the abuse, having been told by the child involved. This amended petition was authorized following a preliminary inquiry that was a meeting between the referee and the child protective services worker at which the parties were not present. No hearing followed authorization.

Respondent-appellant alleges ineffective assistance of counsel for her attorney's failure to object to this amended petition. We review de novo. *In re CR*, 250 Mich App 185, 197; 646 NW2d 506 (2002). The principles of effective assistance of counsel developed in criminal law apply by analogy in termination proceedings. To prevail on her claim of ineffective assistance of

counsel, respondent-appellant must show that her trial counsel's performance was deficient, that it fell below an objective standard of reasonableness and that the representation so prejudiced her that it denied her a fair trial. This entails proving that there is a reasonable probability that, but for her counsel's unprofessional errors, the result would have been different. *Id.* at 197-198.

We believe the preliminary inquiry was conducted within the requirements of the court rules and did not constitute a violation of fundamental fairness or a denial of due process. Respondent-appellant argues she should have had a hearing under MCL 712A.13a(2) following the amended petition. The trial court may have erred in failing to hold this hearing. The error was harmless, however. The only requirements that need to be addressed at such a hearing are removal of the abuser and the placement of the children. Houston was the abuser and the children had already been removed from the home. Thus, the hearing was probably moot, and respondent-appellant would not have received the sort of review of the amended petition she sought. Furthermore, respondent-appellant had a full hearing at the adjudication/termination hearing. We do not perceive a reasonable probability of a different result had respondent-appellant's attorney challenged the amended petition.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Donald S. Owens